SPEECH

OF THE

REV. ROBERT BUCHANAN,

ON THE

INDEPENDENCE OF THE CHURCH,

DELIVERED IN THE

GENERAL ASSEMBLY,

ON THE 23RD MAY, 1838,

WITH A

PREFACE AND APPENDIX.

GLASGOW:
WILLIAM COLLINS, 7 SOUTH FREDERICK STREET.
1838.
PRICE THREEPENCE.

PREFACE.

When any question arises materially affecting the interests of religion and the welfare of the National Church, it is customary for the inferior church courts to address overtures to the General Assembly upon the subject. The design of such overtures is to bring the matter, whatever it be, under the view of the Supreme Ecclesiastical Court, and to induce that venerable House to pronounce such a judgment and to adopt such measures regarding it, as the nature and whole circumstances of the case may seem to require. It was in this way the late General Assembly found itself called upon to take up the question of the Church's spiritual independence. The decision pronounced by the Court of Session in the Auchterarder case, in the month of March last, appeared to a large body of the ministers and elders of the Church of Scotland to carry in it a violation of her independence. The law which the Church had passed in the year 1834, to prevent the intrusion of ministers into parishes contrary to the will of the people, was pronounced by the above-mentioned decision incompetent and illegal. This decision was not unanimous. It was carried by a majority of eight to five of the judges. The majority consisting of the Lord President, the Lord Justice Clerk, Lord Gillies, Lord Medwyn, Lord Meadowbank, Lord Mackenzie, Lord Corehouse, and Lord Cunningham. While the minority was composed of Lord Moncrieff, Lord Jeffray, Lord Fullarton, Lord Cockburn, and Lord Glenlee. The judgment of the court in this case having awakened the deepest interest throughout the country, the whole proceedings connected with it were published in a work which bears to have been issued under the authority of the court. In this work, the elaborate speeches in which the different judges expressed their opinions, are given to the world. In these speeches, the principles and views which regulated the judgment of the majority are fully stated,—and were found to be of a character which could not but increase the alarm, the judgment itself had produced among all those who were jealous for the spiritual rights and liberties of the Church. It was in these circumstances that numerous overtures were, in the course of Spring, adopted by the inferior church courts, calling upon the General Assembly at its meeting in May last, to take such measures with a view to vindicate the Church's spiritual independence as the occasion seemed to require. With this view, overtures were transmitted from the Synods of Lothian and Tweedale, Glasgow and Ayr, Dumfries, Moray, &c. &c.; and from the Presbyteries of Edinburgh, Glasgow, Aberdeen, Inverness, Dunblane, Hamilton, Perth, Lauder, &c. &c. These overtures having been called for in due form by the General Assembly, on Wednesday, the 23rd of May, I had the honour of introducing the subject to the notice of the House. And, as the speech delivered on that occasion has been considered by many to contain some important views on this great question, I have consented, at their request, to its publication in this separate form. As it was not possible to anticipate everything in an opening speech, I have, with a view to make the statement of the subject more complete, subjoined a few remarks calculated to meet the chief objections that were raised in the subsequent debate.

SPEECH.

MODERATOR—It will readily be allowed, that the question now brought by these numerous overtures under the consideration of this venerable house, is one of fundamental importance. The question of the Church's spiritual independence is a vital question. It touches directly and deeply, not merely the Church's interests but the Church's character. It bears immediately and essentially, not only on the welfare of the Church's members, but on the authority and honour of Him who is her blessed Head. And never since the hour when the Reformed Presbyterian Church of Scotland was originally founded, have the great principles that question involves been assailed or threatened, without finding this Assembly prepared, at whatever cost, resolutely to assert and defend them. In proposing, therefore, in accordance with the prayers of the overtures now upon the table, to issue a declaration in support of these principles at present, the only possible difference of opinion that can arise must be limited to this single consideration—whether at present there be any sufficient call for such a declaration being made? The doctrine of the Church's spiritual independence, it may be argued, is already abundantly well known. It is laid down broadly and conspicuously in our Confession of Faith. It is recorded in our books of discipline. It is inscribed, and that not unfrequently, in characters of blood, on many of the brightest and most memorable pages of our ecclesiastical history. Like some ancient banner which has been borne in triumph through many a hard-fought field, it hangs honoured and venerated within our Church's armoury; and there is no cause, it may be thought, why we should be shaking the dust from its folds, and flinging it again abroad to the winds of heaven. That the framers and supporters of these overtures have arrived at a different conclusion, is sufficiently plain; and if the Assembly will grant me the indulgence I so greatly need, I shall not despair of being able to adduce some considerations that may perhaps serve to show, that the view they have taken of the subject has not been adopted on slight or trivial grounds.

It cannot be unknown to the members of this court, that by a certain party in this country the lawfulness of church establishments has of late years been vehemently and confidently denied. To the controversy on that subject, which has in consequence arisen, I have no intention to allude, further than by offering this remark—a remark in which I am persuaded all who have paid any attention to that controversy will at once agree—that by far the most plausible argument which the supporters of anti-establishment principles have employed is this—that the Church cannot be *united* without, at the same time, and of necessity, being *subjected* to the State—that the union, in short, is and must be consummated, at the expense of a surrender of the Church's spiritual independence. That such a surrender has, in point of fact, in particular instances been made, is what no man in his senses will venture to deny. And though it was sufficient to reply to any argument founded on cases like these, that it proves nothing more than that the church establishment principle, like every other principle, the practical application of which is committed to the hands of fallen and fallible creatures, is liable to be abused—a conclusion which every one

knows may be easily demonstrated even against Christianity itself,—and although this answer is doubtless quite enough so far as the merits of the abstract question are concerned; still it has been always and justly felt that, in exposing the pernicious sophistries in which the question has by the Church's enemies been purposely involved, we were placed on a high and important vantage ground by the fact, that our own national religious establishment stood clear from the specific abuse to which reference has been made,—that the Church of Scotland, in entering into and maintaining an alliance with the civil power, has done so with unshackled hands—has made no compromise of her character as a church of Christ, but continues to hold and to exercise all those inherent and essential rights and privileges she has derived from the Lord Jesus, her sole head and sovereign. It has been considered of inestimable importance to be able to make this statement, because in matters of public controversy the mass of mankind are much more influenced in choosing the side to which they shall adhere, by a regard to their own immediate and practical interests, than by views of a purely abstract and speculative kind. And if the truth of the statement had been called in question only by those who are labouring openly and avowedly for the overthrow of the National Church, and who, in their eagerness to accomplish that object, have not shown themselves particularly scrupulous as to the means to be employed, I for one should have deemed it altogether unnecessary to dignify their groundless accusation, by calling on this venerable court to notice it at all.

I cannot but feel, however, that the matter has been placed in a very different position, by the recent proceedings of other parties, very different from those to whom I have just referred. It is to be presumed the members of Assembly are well aware there has recently issued from the press a Report of the proceedings of the Court of Session, relative to the "Auchterarder Case,"—a report which bears on its title page to have been "published by authority of the court." In that voluminous report there are contained assertions in reference to the Church's independence, given as employed by eminent counsel on one side of the case, to which I shall not more specially allude—because I am well aware that a privilege of which we have all heard, under the name of the "Poetic Licence," is a privilege well known at the bar, and by common consent allowed. If, however, I must venture to advert with greater minuteness to certain expressions of a similar kind which are reported as having fallen from the bench, I hope it will be understood that I do so with all becoming respect and deference. But it is just because the quarter from whence these expressions have proceeded is so high and influential—because both professional learning and eminent official station combine with private worth, to lend weight and authority to the opinions thus pronounced, that it is impossible to maintain silence regarding them. And certainly it does not diminish the pressure of that necessity which lies upon the Assembly to repudiate those opinions, that they were delivered in some cases by individuals who are not only judges of the Court of Session, but elders of the Church of Scotland.

What, sir, are the members of our Church to think, when they hear it said from the bench of our supreme civil court, gravely and deliberately, that the Church of Scotland has no "inherent right to any power or privilege, except that which the legislature has conferred upon it," and that she is "the mere creature of statute?" What are

they to think when they hear this extraordinary language—the most extraordinary, I will venture to affirm, that was ever heard within the walls of the Court of Session—"That our Saviour is the head of the Kirk of Scotland in any temporal, or legislative, or judicial sense, is a position which I can dignify by no other name than absurdity: the Parliament is the temporal head of the Church, from whose acts and from whose acts alone, it exists as the National Church, and from which alone it derives all its powers?" I hesitate not to affirm that there is more damage done to the cause of establishments in general, and to the interests of the Church of Scotland in particular, by that single sentence, than by all the elaborate speeches which, in a controversy of nearly six years' duration, their enemies have ever uttered. I do not wonder that the sentiments it contains should have elicited from a different part of the same honourable bench this pointed observation —an observation addressed indeed, I presume, in virtue of some conventional courtesy, not so much to the bench as to the bar, but which most justly describes the real character and tendency of the sentiments it condemns—"If they had really any solid foundation, they would go far to annihilate all the substance of the fabric of the Church of Scotland, and all that has hitherto endeared it to the affections and drawn to it the grateful respect and veneration of the people of this land." I rejoice that within the same court, where such offensive and objectionable statements were made, there were others prepared to disclaim and oppose them. But that circumstance does not relieve this court from the necessity of lifting up its voice. Independent of the consideration that, in the case then under discussion, a judgment was pronounced practically in accordance with the opinions of those by whom the Church's independence was so flatly denied; the very fact that such opinions were expressed from the bench of the Court of Session, imperatively requires that this Assembly should not, by its silence, even appear to acquiesce in them. We dare not allow the common calumny of Voluntaries to receive a sanction which, if allowed to pass uncondemned by the Church itself, cannot fail to lend a most injurious force to the calumny that was only contemptible before. The honourable and right honourable judges to whom I allude, seem, like the well known Erastus, to resolve all the powers exercised by Church governors into the will of the State. They seem to look upon the Church as an institution which owed its very existence to the civil power, or at least, if some of them do not go quite so far, to think any existence it had, or could have, apart and by itself, ceased at the moment of its conjunction with the State; so that when it reappeared under its established form, it was no longer in any sense the same, but a new institution, whose native and original character was gone, and which dated a new and altogether different existence, all whose powers and functions it derived not from Christ, but from Cæsar—from the era of its establishment. In short, that it had undergone a complete metempsychosis—as complete, and far more humiliating and degrading than any of which we read in oriental romance.

It did not surprise me to find attached to an overture on this subject, from the synod to which I have the honour to belong, the name of a highly respected member of the Presbytery of Ayr. It did not surprise me, because I remembered the doctrine taught by his venerated relative, Principal Hill—so different from that which has so painfully distinguished the civil proceedings in the Auchterarder case. If the Christian church were a mere voluntary association, into which men

entered without being obliged to it, they might consent, without deserving blame, to place it entirely under secular authority. But, as Dr. Hill observes, "the Christian church is to be regarded in a much higher light than as a voluntary association. It is a society created by *Divine institution*." And having shown by a very simple process of reasoning, that as such it must have all the powers necessary for its own government, he proceeds to remark that, "as the Church did exist before it was united with the State, it may exist without any such union; and that it will possess, in this state of separation, when it can derive no aid from civil regulations, all the authority which Christ meant to convey through his Apostles to their successors, and of the exercise of which the Apostles have left examples. The same reasoning," he adds, "and the same facts also, prove, that when the Church receives the protection and countenance of the civil power, she does not by this alliance lose those rights and powers which are implied in Church government as such." And the late lamented Dr. Inglis, in his well known "Vindication," instead of countenancing the degrading notion that the loss of these rights and powers is the necessary consequence of the Church's uniting with the State, makes this strong and explicit statement to the contrary—that "if a civil government shall attempt to direct the appropriate concerns of the visible Church of Christ, by either superseding or controlling its separate and independent power for the regulation of its own spiritual and inherent interests, * * * that government is so far an adversary of Christ and his cause in the world." I have referred to these authors in preference to many others, just because none will suspect them of advocating extravagant opinions on this question—of pushing the doctrine of the Church's independence one hair's-breadth beyond its just limits. It may be said, indeed, that these eminent writers were describing not what is, but what ought to be—not an independence which the Church of Scotland does enjoy, but what according to right principle she ought to enjoy. But though it would be very easy to show that this is not the fact, it is of no consequence to my purpose, as my sole object in referring to their opinions was merely to show that the Erastianism avowed and maintained by certain learned judges of the Court of Session, is repudiated and condemned by even the most cautious and guarded of our Scottish divines.

To prove what is the actual position of the Church of Scotland in reference to the question of spiritual independence, I shall not appeal to the authority of any writers whatever. I shall appeal to her own standards—standards which the State has sanctioned, and which have been nobly illustrated in the most trying periods of her history. What says the Second Book of Discipline, one of the chief standards of our Church? After laying it down in general terms that the Church has a certain power granted by God, according to which it uses proper jurisdiction and government, the first chapter goes on, at the fifth and following sections, to declare that "this power ecclesiastical flows immediately from God and the Mediator Jesus Christ, and is spiritual, not having a temporal head on earth, but only Christ, the only spiritual king and governor of this church. It is a title falsely usurped by Antichrist to call himself head of the Church. And not to be attributed to angel nor man, of what estate that ever he be, saving to Christ, the only Head and Monarch of the Church. Therefore this power and policy of the Church should lean upon the Word immediately, as the only ground thereof, and should be taken from the pure foun-

tains of the Scriptures, the Church hearing the voice of Christ, the only spiritual King, and being ruled by His laws." Again: let us look to the Westminster Confession of Faith, which every member of this House has subscribed as the true Confession of his own Faith—and we read there the same grand doctrines, as explicitly declared. In the 25th chapter it is solemnly asserted, "that there is no other head of the Church but the Lord Jesus Christ;" and further, in the 30th chapter, that the "Lord Jesus, as King and Head of his Church, hath therein appointed a government in the hands of Church officers, distinct from the civil magistrate;" and again, in the 31st chapter, in explanation of the nature and design of that spiritual government, it is stated, that in "the Church there ought to be such assemblies as are commonly called Synods or Councils,"—and that "it belongeth to Synods or Councils ministerially to determine controversies of faith and cases of conscience; to set down rules and directions for the better ordering of the public worship of God and government of his Church; to receive complaints in cases of mal-administration, and authoritatively to determine the same;—which decrees and determinations, if consonant (not to acts of Parliament, but) to the *Word of God*, are to be received with reverence and submission not only for their agreement with the word, but also for *the power whereby they are made*, as being an ordinance of God, appointed thereunto in his word." Will any man venture to say, with these standards before him, that the Church of Scotland "is the mere creature of civil statute?"—that she has "no inherent right to any power or privilege except that which the Legislature has conferred upon her?" It will not suffice, to explain away that extraordinary statement, to say, that if the Church really has this spiritual liberty, she owes it to acts of Parliament. The acts of Parliament, by which her liberty is ratified, recognise her spiritual independence as a thing already existing—they do not confer it as a mere State privilege.

And this leads me to return to what has been already hinted at, namely to the utterly erroneous and unfounded notion on which certain of the judges in the Court of Session appear to have proceeded, with regard to the nature of the connection which has so long subsisted between the State and the Church of Scotland. The notion to which I allude is the more deserving of notice, because it evidently lies at the bottom of all those low unworthy views as to the Church's slavish subjection to the State, which the Assembly is now called solemnly and deliberately to disavow and condemn. There is a passage in one of these judicial speeches, which brings out in its broadest and most offensive form the cardinal error which I have in view.—"Now," said his Lordship, "as to the Act 1690 (re-establishing the Presbyterian Church,) one circumstance is very remarkable—If there was one thing more than another within the compass of the exclusive cognizance and jurisdiction of the Church, it would seem to be the settling the terms of the Creed or Confession of Faith of the Church. But the Church knew that it could not do so, and did not venture to do so, by its own authority. The Church drew up what she thought ought to be the Confession of Faith of the Presbyterian Church, but she did not declare and enact by her own authority that this is and shall be the Confession of Faith of the National Church of Scotland—No. The Church presented it to Parliament, by which it was voted and approved." The fallacy which pervades this passage is so glaring and palpable, that one does feel no ordinary astonishment to find it escaping the notice

of any one occupying a place on the Bench of the Court of Session. The speech in question seems to confound two things which are altogether and essentially distinct and different; namely, the right on the part of the Church "to settle the terms of her own creed or confession," with the right "to enact and declare, by her own authority, that that creed is and shall be the Confession of the National Church." Because she cannot do the latter, it is taken for granted she is equally incompetent to do the former. But who does not see through the little obscurity which appears to have led to this erroneous judgment? The union between Church and State is an alliance between two distinct, independent, and co-ordinate powers. In entering into this alliance, each of the parties is entitled to know for what the other stipulates, as terms af agreement. The State, as a Christian State, is not only entitled but bound to know what doctrine the Church holds and designs to teach. It is the very fundamental position of the supporters of Church Establishments, that the State, or civil Magistrate, is not only qualified, but is under a solemn obligation, to ascertain what is the true religion, and that it is the maintenance and propagation of the true religion alone he is at liberty to countenance and aid by means of the civil power. He must therefore see to it that the creed he is to sanction is in accordance with the Word of God; and it is only by his sanction as matter of course that it can become the creed of a national Established Church. But this right and this duty on his side, implies no prejudice to the right and duty of the Church to settle the terms of her creed, and to determine of her own exclusive judgment and authority what her creed shall be. Having done so, not as an Established Church, for we are here considering her proceedings antecedent to her establishment, but having done so in her native capacity as a Church of Christ, she presents it to the State as her standard of doctrine. If the State accept and own it, then the alliance is formed. If the State disclaim and reject it, the Church does not renounce her creed; she simply renounces the proposal for a State alliance, and continues as she did before to maintain her creed in a state of separation. Each of the two parties between whom the alliance is to be constituted, has a right to know the principles on which the other designs the alliance to be maintained. And it would be just as incompetent for the Church to require the State to relinquish its character as a monarchy, and assume the principles of a republic as it would be for the State, in conducting this negotiation, to require the Church to abandon her orthodoxy and to adopt the principles of Socinus.

Now, this which I have now stated is not merely the true theory of what the terms of union between Church and State ought to be, but it is the true theory of the union actually subsisting between the Church of Scotland and the Government of Great Britain. With regard to the Confession of Faith, every one knows it was first adopted by the Church in the Assembly of 1647, and ratified eighteen months thereafter by Act of Parliament—and again at the Revolution, since which time it has stood unchanged. It is surely, then, as plain as any proposition can be, that the State, in sanctioning that Confession, did not create the powers and privileges which the Confession declares to be inherent in the Church, as a Divine institution, but simply recognised and ratified these powers and privileges as existing in the Church, and as derived to her, not from civil statute, but from the Lord Jesus Christ. And that, in the face of these ob-

vious considerations, the statement I have quoted should have been made, only shows how strongly the most honourable mind may be misled by the influence of preconceived opinions—a truth still further illustrated by a circumstance even more remarkable than the delusion I have endeavoured to expose, because it refers to a matter of fact which is taking place every year, and taking place in a manner directly the reverse of what the learned judge has described. I am sorry to detain the Assembly by so many quotations, but where most mischievous misconceptions are sanctioned by so high an authority—and in the present state of public feeling in this country they are fitted to be peculiarly mischievous—it seems indispensable that the present opportunity should be taken advantage of, to give them a distinct and authoritative contradiction.

At the tenth page of the second volume of the Report on the Auchterarder case, the following statement occurs:—"Then it, *i. e.* the Act 1567, goes on to ratify the power of the ministers to hold General Assemblies, but under a remarkable proviso—'That the King or his Commissioner be present at ilk General Assembly before the dissolving thereof, and nominate the place when and where the next General Assembly shall be holden.' And yet the General Assembly always goes through the form by the Moderator of dissolving itself, and fixing the time and place for its next meeting; which, however, it takes care shall be the same time and place which had been already declared by the Commissioner." Now, in the first place, it is to say the least of it, remarkable that the quotation of the Act should have stopped where it did. It would certainly have conveyed a somewhat different and more honourable idea of the Church's independence of State authority, had the sentence which immediately follows been added, and which is in these words—"And in case neither his Majesty nor his said Commissioner beis present, for the time, in that town quhair the said General Assembly beis holden, then and in that case it sall be leisum to the said General Assembly be themselves to nominate and appoint time and place quhair the next General Assembly of the Kirk sall be keiped and halden, as they have been in use to do thir times by past." In other words, while the king's right to be present in the Assembly is reserved, the Church's right to act in his absence is as plainly asserted and recognised—a fact which they who draw their information solely from the speech in question would undoubtedly fail to learn. But further, as if determined not only to disclaim the Assembly's power, but to pour ridicule on the Act by which that power is assumed, by a singular infelicity of memory in one who sat here so long as an elder, he boldly maintains that you, sir, in dissolving this Assembly, are but the faint and feeble echo of a voice that has previously issued from the throne! I presume it will be found, when the duties of your honourable office are about to terminate, that the authority which dissolves this House, wherever it may be re-echoed, will emanate, in the first instance, from the Moderator's chair.

I am aware, that, in disputing the Church's spiritual independence, great weight has been laid, both in the Court of Session and in some other quarters, on the alleged fact that the Second Book of Discipline was never ratified by the State, excepting only those portions of it which were embodied in the well known statute of 1592. Now, independent of the Second Book of Discipline altogether, I think it has been made sufficiently clear that the ratification of the Confession

of Faith—a standard which claims so explicitly for the Church a distinct and independent right of government in spiritual things—is by itself far more than sufficient to scatter to the winds those offensive statements of which I have had occasion to speak. But I am far from assenting to the view which was taken on one side of the Bench with regard to the ratification of the Second Book of Discipline. It has been said with much confidence, that the doctrine laid down in that book as to the inherent rights of the Church and the functions of its several courts is to be regarded merely as an exposition of what the Church claimed—and that every one of these claims is to be held as rejected excepting those only that are expressly recited in the body of the Act 1592. Indeed it has long been a favourite way of speaking with certain individuals in this house to say that it is only in Acts of Parliament you can find what the powers and prerogatives of the Church really are; and that, whatever cannot be pointed out in the civil statute book is to be held as having no existence in the Church. Now, even *à priori* one might surely venture to regard it as a far more legitimate and common-sense-like principle of interpretation to say the very contrary; viz., that whatever rights the Church has assumed in her own standards, are to be held as conceded and in force, excepting in so far as a civil statute can be produced expressly setting them aside. In regard to the Second Book of Discipline, it is easily demonstrable that this is the only principle of interpretation that can be followed, consistently either with right reason or with undoubted facts. If the ratification, according to the other view contended for, was limited strictly to the passages embodied in the Act 1592, observe what must of necessity follow: The object of those who argue in favour of that view is to exclude from the benefits of the ratification that portion of the standard which asserts the right of the people to be protected from the intrusion of a pastor among them contrary to their will. But, in order to get rid of that one portion, they are forced to adopt a principle which would equally denude the Church of the very essentials of its character as a Church of Christ altogether. The fourth chapter, for example, of the Second Book of Discipline, defines the powers of pastors—asserts it, as the right of their office, to preach the Word—to administer the sacraments—to solemnise marriage. Not one of these sections has a place in the civil statute, and of course they are to be held as claims made indeed by the Church, but rejected by the State! So that you, Moderator, every Sabbath you enter your pulpit are to be held as illegally assuming a privilege which the law of the land denies, and of course subjecting yourself to the pains and penalties such a flagrant defiance of authority deserves.

That some things in the Second Book of Discipline were not ratified, is true; but then we are to ascertain what these are, not from the silence of the civil statute, but from some express reference to them in the statute, a reference in which the things in question are disallowed. The only answer that can be made to a statement so plain and conclusive is this, Why then are certain things which *are* allowed, introduced into the statute? If the mere silence of the statute was sufficient to sanction the various powers and privileges asserted in the Book of Discipline, why were certain of these actually engrossed in the statute? Does not this imply, that these have an authority allowed to them which is not granted to the others? There is, at first sight, some plausibility in this consideration, which, however, a closer examination may easily overcome. In the first place, let it not be forgotten, as has been

already shown, that according to this objection, authority will be denied by the Act 1592, to the pastors to preach the gospel and administer the sacraments, which is surely a sufficient reason for suspecting at least that there must be a flaw in it somewhere. But, in the second place, there was a very intelligible and obvious reason for expressly specifying some things, as ratified by the Act, while others were merely included under some general principle which the Act recognised. It is is most instructive on this point to examine the passages of the Book of Discipline embodied in the Act, in the light of the history of those eventful times. These passages, so engrossed in the Act, refer, as every one is aware, to the powers and functions of the different Courts of the Church. By the Black Acts of King James, passed eight years before, a ruinous encroachment, it is well known, had been made on the rights of the Church. By these infamous Acts the supremacy of the King and of the Civil Courts, in matters *spiritual* as well as temporal, had been declared. The Church courts were liable to be treated as unlawful conventions. And the power of admitting and depriving ministers was vested in the bishops or commissioners of the king. Now, to remove the fetters which had thus been despotically fastened on the struggling Church, it was not enough that the Act 1592, should "cass and annull," as it did, "all and whatsoever acts, laws, and statutes made at any time before the day and date hereof, against the liberty of the true Kirk, juri diction, and discipline thereof, as the samin is used and exercised within this realm." This might be a sufficient security as to most things, and especially as to all those rights which, without interruption, had been used and exercised within this realm; and there is no evidence to show that the right of non-intrusion was not in this number. But it was not sufficient to give the Church an adequate security that those special restraints which the Black Acts had imposed, were to be entirely removed. The Church would not and could not be satisfied unless the gross violation of her rights and liberties, perpetrated by the Black Acts, were prevented in time to come, by a clear and unambiguous ratification of the very rights and liberties which these Acts had trampled on. And hence the introduction into the statute, 1592, of those portions of the Second Book of Discipline to which reference has been made. And the true light in which that statute is to be regarded is this, that while it condescends on certain important particulars, as to which past events had rendered the Church peculiarly jealous and sensitive, it, at the same time, recognised and sanctioned the Church as existing according to her own constitution, established by her own authority, and the jurisdiction and discipline she had been accustomed to use and exercise. And therefore it follows of necessity, that her whole internal government and policy, as then subsisting in the Second Book of Discipline and Acts of Assembly, must have been acknowledged and ratified by the Act 1592, excepting in so far as any express provisions to the contrary are found in the Act itself. It seems, therefore, as clear as noon-day, that the spiritual independence of the Church of Scotland—her entire and unrestricted freedom in all matters ecclesiastical, so broadly and unequivocally asserted in her standards—has been distinctly owned and fully secured to her by the laws of the land.

To apply this grand doctrine of the Church's independence to the late civil proceedings in the Auchterarder case, might, in order to do justice to it, require more of the time of this Assembly than I dare venture to occupy; but the process is as simple as its result is satis-

factory. That case arose out of the Act anent Calls, passed by this Church in 1834. The object of that Act was to give full force and effect to the fundamental law of the Church, that "no pastor be intruded on any congregation contrary to the will of the people." That such a law was laid down by the Church from the beginning of its history, cannot be denied. We meet with it in the very infancy of the Church in her First Book of Discipline; in the Second Book it is pointedly repeated; again at the restoration of Presbytery in 1638; in the Directory of the Assembly 1649; and long after, in 1736, four-and-twenty years after patronage, in its present form, had been restored, it is declared by the Assembly in the most solemn terms. That this fundamental law of the Church had at the same time, in a parallel course of civil statutes, been recognised and ratified by the State, is equally clear. The Act 1567, of course having in view the law of the Church as to non-intrusion, expressly puts into the hand of the Church exclusively, as then "publicly professed" within the realm of Scotland, the whole power of the "examination and admission of ministers"—reserving indeed the right of presentation to the ancient patrons, but reserving it under the restriction and limitation manifestly implied, in leaving the whole matter of the trial and settlement of the ministers presented to the Church herself, whose laws, therefore, on that point are plainly ratified and confirmed. This Act, 1567, was confirmed by that of 1581; and this latter again by the statute 1592, in which, while the powers conferred on the Church by former statutes are confirmed, it is further specially provided and declared, that Presbyteries shall have "full power to give collation upon all presentations to benefices, and to put order to *all matters and causes ecclesiastical* within their bounds *according to the discipline of the Kirk*." Now, I have no intention of going into the question whether or not the Act of Assembly 1834, by which intrusion was defined to mean a dissent by a majority of male heads of families communicants, was or was not a wise and salutary measure. It is enough for me that a majority of the Presbyteries of this Church deliberately declared this to be their judgment, and that the Church in consequence passed it into a standing law. But what the Assembly is concerned with at present is not the wisdom of the Church but the competency of the Church in making such a law at all. I am well persuaded that even among those who objected to the passing of the law on grounds of expediency, there are many as much prepared as I am to contend for the Church's full right and authority to make it, and who will be as ready to join in disclaiming that jurisdiction which the civil court has assumed in venturing to pronounce it illegal. That the settlement of a minister is a matter purely ecclesiastical, is too obvious to need any illustration. In all such matters the policy of the Church, as her own standards require, must "lean upon the Word immediately as the only ground thereof—must be taken from the pure fountains of the Scriptures, the Church hearing the voice of Christ, the only spiritual King, and being ruled by his laws." And never can she consent to renounce that fundamental article of her constitution, whatever be the cost at which she may be called to maintain it. What course she may find it necessary to pursue in case that happen which I shall not anticipate—that the decision of the Court of Session shall be confirmed in the House of Lords—it would not become me at present to offer an opinion. But this I will venture beforehand confidently to affirm, that she will never consent to abandon a law, which she has made under a solemn conviction that it was imperatively

required, alike by a regard to the fundamental principles of her own constitution, to the spiritual welfare of her people, and to the honour and glory of her supreme and only Lord. To do so were to lay herself prostrate under the feet of her enemies—to proclaim with her own tongue what they have injuriously and calumniously averred, that she has sold her birthright as a Church of Christ, for what in comparison were more worthless than Esau's mess of pottage.

But without involving this discussion in difficulties which I trust may never be developed, there is one thing meanwhile which the Church not only may do, but must do, if she desires to vindicate her own honour in the question which is now at issue between her and the civil courts. She must assert her authority over her own ministers and licentiates. She must not allow her own office-bearers to defy her own laws—to employ the very status she has conferred upon them for the purpose of pouring contempt on a jurisdiction they have sworn to obey. To be dragged to the bar of a civil court by a civil personage, is only to suffer an injury which cannot in certain circumstances be avoided. But to permit such an outrage to be perpetrated by an ecclesiastical personage, is subversive of the first principles of ecclesiastical government. The course which in similar circumstances was pursued by this Church in the celebrated case of Montgomery in 1582, was no new thing in the Christian Church. The very same thing was done 1200 years before by the great councils of Antioch and Carthage. On this subject the following passage from Lauder's Ancient Bishops considered, page 289, is worthy of notice:—"If a Minister," says he, "being deposed by the Presbytery, Synod, or Assembly, should have recourse to the civil Magistrate, King, or Parliament, for restoration, he would be looked upon by our Church as very unworthy of the office in all time coming. And this agrees with the twelfth canon of the Council of Antioch, held in 342, which forbids clergymen who have been deposed by their bishops to address themselves to the emperor to obtain restitution, and takes from those who shall do so all hope of being restored. And with the ninth canon of the Council of Carthage, in 397, which ordains, that if a clergyman, being accused before the ecclesiastical tribunals, removeth the cause to the civil magistrates, though he even gain the cause, he shall lose his place. How far," adds this author, "were Christians from being Erastians in those days?" The truth is, such a course is prescribed by the very nature of things—there can be no government unless those who are legitimately within its jurisdiction be compelled to obey it. But as if to leave no loophole, no room for evasion, to any who may be disposed to disregard so obvious a principle—that principle has been embodied in the form of a solemn oath, which is sworn by every minister and probationer of this Church. In that oath he swears that "he will submit himself to the discipline and government of this Church, and shall never directly nor indirectly endeavour the prejudice or subversion of the same." The Church has imposed this vow, and she must not allow it to be treated with mockery. If she has probationers who are ignorant or heedless of the obligations it imposes, it is her bounden duty to take order to instruct them if they will hear her, and to punish them if they will obstinately disobey.

But I dare not further enlarge. I am deeply sensible of having already detained the Assembly by far too long. Suffer me only before I conclude, to remind the Assembly of the eminently responsible position in which it now stands. The eyes of the country are fastened

upon you, in connection with this question, with an earnestness and anxiety of the intensest kind. The enemies of our venerated Church are looking on in the eager hope that your indecision or unfaithfulness, may leave them to raise the shout of malignant triumph, They know and feel that all their own efforts from without to endanger her stability, have been impotent and unavailing. And that if their desire for her overthrow is ever to be realised, it will be the result not of an external assault, but of a stroke dealt to her from within. Nor is it with an interest less keen the Church's friends are now awaiting your decision. Let the Assembly show itself wavering and irresolute as to the Church's spiritual independence—let it discover the faintest symptom of a disposition to abandon the spiritual rights and privileges of the Christian people, declared to belong to them in virtue of her own fundamental laws, and you will have done more in one day to alienate Scotland from the National Church, than a century of the bitterest hostility on the part of her enemies could possibly achieve. But, on the contrary, let your deliverance this day proclaim throughout the land, that the Church of Scotland is resolved to stand fast in that liberty wherewith Christ hath made her free—to adhere unalterably to those great principles of spiritual independence which were cemented into the constitution of the Church of Scotland by the blood of our martyred fathers —and by that deliverance you will raise a wall of adamant around our Zion, and impart unbounded confidence and comfort to the hearts of the many thousands of her faithful children who are now fervently praying for the peace and prosperity of Jerusalem. Let the banner of the Church's spiritual freedom—emblazoned with the Redeemer's crown—be seen floating, as of old, over her high towers, and she need fear no evil, for then her God will be in the midst of her—her God will help her, and that right early. Mr. Buchanan then read the following motion:—

"That the General Assembly of this Church, while they unqualifiedly acknowledge the exclusive jurisdiction of the civil courts, in regard to the civil rights and emoluments secured by law to the Church, and the ministers thereof, and will ever give and inculcate implicit obedience to their decisions thereanent; do resolve, that as it is declared in the Confession of Faith of this National Established Church, that 'The Lord Jesus Christ is King and Head of the Church, and hath therein appointed a government in the hand of Church officers distinct from the civil magistrate;' and that in all matters touching the doctrine, government, and discipline of the Church, her judicatories possess an exclusive jurisdiction founded on the Word of God, which 'power ecclesiastical (in the words of the second Book of Discipline,) flows from God and the Mediator, Jesus Christ, and is spiritual, not having a temporal head on earth but only Christ, the only spiritual King and Governor of His Kirk:' And they do further resolve, that this spiritual jurisdiction and the supremacy and sole Headship of the Lord Jesus Christ on which it depends, they will assert, and at all hazards defend, by the help and blessing of that great God, who, in the days of old, enabled their fathers, amid manifold persecutions, to maintain a testimony even to the death, for Christ's Kingdom and Crown: And, finally, that they will firmly enforce obedience to the same upon all office-bearers, and members of this Church, by the execution of her laws in the exercise of the ecclesiastical authority wherewith they are invested."

APPENDIX.

The motion thus submitted to the General Assembly was carried, after a lengthened debate, by a majority of 183 to 142. The main ground of all the objections that were taken to it in the course of the discussion, amounted to this,—that the Church, by adopting such a motion, was setting itself in opposition to the law of the land. It is easy to make strong assertions, and by so doing to raise prejudices in the minds of those who have not studied the question. But we are not to be frightened from maintaining a sound and vitally important principle, merely because those who differ from us choose to give it an ill name. To accuse us, as if, under the guise of advocating the Church's "spiritual independence," we were in truth inculcating "civil disobedience," is a proceeding as foolish as it is unjust. Do those who make that charge really mean to affirm, that the Church is bound in *every case* to acquiesce in the judgment of the Court of Session, even when convinced that that judgment, pronounced by a civil court, carries in it a direct invasion of the peculiar jurisdiction of the Church? It will not surely be denied, by those who know anything of our Church's constitution—that her jurisdiction, in all matters and causes ecclesiastical, is as supreme as is that of the Court of Session in civil affairs. Now it must be allowed to be at the least a thing conceivable, that the Court of Session *may* travel beyond its own province, and intrude into that of the Church. And if such a thing were to happen, must the Church tamely acquiesce in the wrong?—must she abandon her own judgment and consent, at the bidding of a majority of the Court of Session, to call that *civil* which she believes to be *spiritual*?—in other words, be contented to place her whole power and jurisdiction under the control of the civil courts, and to accept whatever interpretation they may choose to give on the subject, as alike authoritative and infallible? Unless the opponents of the motion adopted by the General Assembly, mean to go this degrading length, then they must in candour allow, that the mere fact of the Church's disclaiming the jurisdiction the Court of Session has assumed in the Auchterarder Case, though it may prove that there is a wrong somewhere, does not necessarily prove that the wrong is on the side of the Church. Has the Church invaded the province of the civil court? A simple and satisfactory answer to that question may be found in the very first sentence of the motion adopted by the Assembly—namely, "that the General Assembly unqualifiedly acknowledges the exclusive jurisdiction of the civil courts, in regard to the civil rights and emoluments secured by law to the Church and the ministers thereof, and will ever give and inculcate implicit obedience to their decisions thereanent." It is only with "civil rights and emoluments" the Court of Session has to do; and, so far from showing any indisposition to respect its jurisdiction within that province, it is here in the fullest manner recognised. But unless it is meant to deny that the Church has any jurisdiction at all, she is surely entitled to resolve that the proper jurisdiction which belongs to her, she will in the execution of her laws maintain. In the counter-motion of Dr. Cook we find the following words—"That the General Assembly hold sacred the spiritual powers confided to the church by the Lord Jesus Christ, its great head, and consider it to be their indispensable duty to maintain and preserve inviolate those powers." Now if this preamble was intended for anything more than an empty sound, it is here admitted the Church has certain 'spiritual powers,' which it is her 'indispensable duty to maintain inviolate': and the whole question is, have these spiritual powers been encroached upon by the recent proceedings of the Court of Session? If they have, Dr. Cook allows it to be our 'indispensable duty' to repel the encroachment. The majority of the Assembly are satisfied that such an encroachment has taken place, and why should they be condemned for adopting the very course, which in such circumstances he admits would be an indispensable duty? And our great objection to the motion of Dr. Cook was just this—that, while it appeared to recognise the possession of spiritual powers by the Church, it virtually surrendered all right to exercise these powers, excepting in so far as they might be sanctioned by the Court of Session. In other words, both his motion and his argument went to this, that the Court of Sessi was to be taken as the infallible and authoritative interpreter of these powers that, if it declared *that* to be civil which the Church understood and believ spiritual, the Church must consent to the judgment. A principle whi admitted, might ere long annihilate every vestige of these 'spiritual p Dr. Cook nevertheless grants were 'were confided to the Ch Jesus Christ', and which he declares it is our indispensable d preserve inviolate.'

We repeat, therefore, that it is most uncandid and unjust to take for granted that the Church has ultroneously placed itself in collision with the civil courts by the late proceedings of the Assembly. What we affirm is that, on the contrary, the Court of Session has chosen, by going beyond its province, to place itself in collision with the Church. And that it is not we but they who are to blame for the awkwardness and inconvenience of such a state of things.

The motion adopted by the General Assembly was further assailed on the ground of its embodying a resolution to enforce obedience, on the part of the office-bearers, to the laws and authority of the Church. This resolution was stigmatized as oppressive and tyrannical. But here also the thing to be proved was taken for granted, and strong assertions put in the place of sound arguments. On the supposition that the Church had been transgressing beyond the limits of its proper jurisdiction, and had been really usurping the authority of the civil courts, the accusation in question might have had some foundation in truth. But on the contrary supposition—which the Assembly holds to be the true one—that the civil courts have been encroaching upon the peculiar territory of the Church, wherein lies the injustice of requiring the Church's office-bearers to respect her own laws? The whole question is whether the veto law lies within the jurisdiction of the Court of Session or within the jurisdiction of the Church. The patron, or civil person, is unquestionably entitled to prefer the interpretation of the civil court; but the licentiate, as an ecclesiastical person, is bound to take the interpretation of the Church. He is under a solemn oath "to submit himself to the discipline and government of the Church, and never, directly nor indirectly, to endeavour the prejudice or subversion of the same," and to "subject himself to the several judicatures of the Church." It is worse than idle to say, that though he is a licentiate he is still a British subject, and is entitled to prosecute whatever he conceives to be a civil right before the civil courts. A member of any secular society may so appeal, because the civil courts are the proper guardians and interpreters of *all* the rights such a secular society can legitimately exercise. But an office-bearer of the Church, a spiritual society, is in a different position. Just because the Church has rights and powers of a spiritual kind inherent in herself, and in regard to which there cannot be, without usurpation, any interference on the part of a civil court. To admit that an individual office-bearer may set his own opinion in opposition to the Church's law, is to subvert the very foundations of all ecclesiastical authority. There is scarcely a sentence the Church can pronounce upon a minister or licentiate, or a regulation she can lay down for the maintenance of her discipline and government, that does not of necessity involve some civil consequences. If the mere fact, therefore, that his civil interests are at stake, be a reason wherefore he may appeal to the civil courts, the Church may abandon the exercise of discipline altogether. And it was accordingly to prevent so flagrant and manifest an evil, that, in the year 1582, the General Assembly passed the following law, which stands unrepealed, "That the Assembly, with one consent, hath voted and concluded, conforme to the word of God and most Godly acts of ancient councils, that no man seek an ecclesiastical function, office, promotion, or benefice, by any absolute gift, collation, or admission of the civil magistrate or patron, by letters of horning or whatsomever other means than is established by the word of God and Acts of Assembly, &c. &c. and siclike, that none being received to any ecclesiastical office or benefice, seek any way by the civil power to exeeme and withdraw themselves from the jurisdiction of the Kirk, or procure, obtaine, or use any letter or charges, either by themselves or any other in their name, or at their command or instance, impair, hurt, or stay the said jurisdiction, discipline, correction of manners, or punishment of their offences and enormities, or to make *any appellation* from the General Assembly to stop the discipline or order of the ecclesiastical policie and jurisdiction granted by God's word to the office-bearers within the said Kirk, under the pain of excommunication," &c. &c. It was my intention to have illustrated these points at greater length, but the limits of this sheet, within which it was considered desirable to confine the statement, have left me no further space.

GLASGOW:
M COLLINS & CO., PRINTERS, CANDLERIGG COURT.